

REMARKS

Request for Interview

Applicant requests an interview with the Examiner prior to examination of the amended claims in order to expedite prosecution of the application. Applicant believes the claims as now presented are allowable over the prior art of record and are in condition for allowance. The Examiner may reach Applicant's attorney at 312-321-4279.

35 U.S.C. § 112 Claim Rejection

The Examiner has rejected claim 18 as being indefinite under 35 U.S.C. § 112 because the Examiner asserts that there is insufficient antecedent basis for the term "said plurality of openings." Applicant respectfully requests that the Examiner reconsider this rejection since claim 1, upon which claim 18 depends, expressly recites "a plurality of openings" in line 10 of claim 1 recited above. Thus, Examiner's § 112 rejection should be withdrawn.

35 U.S.C. § 103 Claim Rejections

The Examiner has rejected claims 1, 12, 19, 27, 31 and 39 as being unpatentable under 35 U.S.C. § 103(a) over Abraham (U.S. Patent Pub. No. 2003/0171824) in view of Schaldach (U.S. Patent Pub. No. 2002/0123793). The Examiner has also rejected claims 14, 16, 29 and 41 as being unpatentable under 35 U.S.C. § 103(a) over Abraham in view of Yang (U.S. Patent No. 6,613,082). The Examiner has also rejected claims 18, 30 and 42 as being unpatentable under 35 U.S.C. § 103(a) over Abraham in view of Sabolinski (U.S. Patent Pub. No. 2004/0002772).

Applicant has carefully considered the Examiner's comments. In order to expedite prosecution of Applicant's application, Applicant has cancelled claims 19, 29-31, 39 and 41-42. Claims 1, 12, 14, 16, 18 and 27 have been amended. Claims 43-46 have been added.

Claim 1 as amended is directed to an expandable stent formed from at least a first layer and a second layer. The first and second layers are made from different non-

synthetic, natural tissues. The cannula of the stent is characterized by the absence of a synthetic support structure. The first layer has growth factors that encourage cell migration into the first layer. The second layer comprises a structural layer that supports the cannula against the vessel wall. The cannula has a plurality of radial openings that form a pattern of struts. The radial openings and the struts make it possible for the cannula to expand to support the vessel wall. None of the prior art of record discloses these limitations, and there is no motivation or suggestion to combine the prior art to achieve the claimed invention.

In particular, Abraham fails to disclose or suggest the expandable stent that is claimed. The Examiner argues that it would have been obvious to modify Abraham to add a layer of cartilage to achieve the invention. This argument however is unsupported and would not result in Applicant's invention as claimed. The Examiner seems to rely primarily on paragraphs [0011] and [0034] of Abraham in support of the proposed modification. However, neither of these paragraphs disclose or suggest using a non-synthetic, natural tissue layer, such as cartilage, as a structural layer. Abraham also does not disclose or suggest the claimed structural layer having a plurality of radial openings that form struts. Abraham does not even have figures showing how a stent would be made from the material disclosed in Abraham. Thus, Abraham does not disclose or suggest the claimed invention.

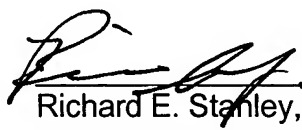
Likewise, Schaldach does not disclose or suggest a stent with different non-synthetic, natural tissues, where one layer has growth factors and one layer is a structural layer. Schaldach also does not disclose a stent that is expandable by having a plurality of radial openings that form a pattern of struts. In fact, Schaldach teaches away from the claimed invention because the stent is folded in the sheathing catheter and unfolds when it is released. By contrast, the expandable stent which is claimed changes diameter by expanding the radial openings and the struts.

Because the prior art of record does not disclose or suggest all of the limitations of claim 1, claim 1 is allowable as now presented. Claims 12, 14, 16, 18, 27 and 43-46 are also allowable since these claims depend from claim 1. Any further arguments that could be made in support of Applicant's dependant claims would be superfluous at this time. Thus, the Examiner's § 103 rejections may now be withdrawn.

Conclusion

In response to the Examiner's comments, Applicant has amended claim 1 and cancelled claims 19, 29-31, 39 and 41-42. In addition, claims 12, 14, 16, 18 and 27 have been amended and claims 43-46 have been added. None of the prior art of record discloses or suggests all of the limitations required by the claims as now presented. In particular, none of the prior art of record discloses or suggests an expandable stent with at least two layers, where one layer has growth factors and one layer is a structure layer, and where the stent has radial openings that form a pattern of struts. Thus, Applicant's claims are allowable. Accordingly, Applicant requests reconsideration and allowance of the application.

Respectfully submitted,



Richard E. Stanley, Jr.
Registration No. 45,662
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200